

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

IN THE MATTER OF	)	<b>AMENDED</b>
RODEO SANITARY DISTRICT	)	COMPLAINT NO. 98-001
CITY OF RODEO	)	FOR ADMINISTRATIVE
CONTRA COSTA COUNTY	)	CIVIL LIABILITY

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the Regional Water Quality Control Board, San Francisco Bay Region (Regional Board) may impose civil liability under Section 13385 of the State Water Code.
2. Unless waived, a hearing on this matter will be held before the Regional Board on June 17, 1998, at the BART Headquarters Building, Second Floor Meeting Room, located at 800 Madison Street in Oakland, California. You, or your representatives, will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. An agenda showing the time set for the hearing will be mailed to you not less than 10 days before the hearing date. You must submit copies of any written evidence concerning this Complaint to the Board by June 10, 1998. Any written evidence not so submitted may not be considered by the Board.
3. At the hearing, the Regional Board will consider whether to affirm, to reject or to modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

**ALLEGATIONS**

4. You are alleged to be in violation of Section 13385 of the State Water Code, by failing to operate the Rodeo Sanitary District wastewater treatment plant in compliance with the NPDES permit No. CA0037826, Regional Board's Order No. 94-067 for the facility.
5. The following facts are the basis for the alleged violations in this matter:
  - a. The Rodeo Sanitary District (the discharger) was issued an NPDES permit (the permit) in 1994 to discharge treated wastewater from its treatment plant. The permit authorizes discharge of wastewater that has been treated in a specified treatment process which includes primary clarification, biological treatment using activated sludge, secondary clarification, and disinfection. The permit also requires regular chemical analyses of the effluent to monitor compliance with effluent limitations established in the permit. Effluent samples collected for this

purpose are to be representative of the effluent discharged to the San Francisco Bay through the common deep water outfall shared with the cities of Hercules and Pinole. Self-monitoring and reporting requirements are specified in the Self-Monitoring Program of the permit.

- b. Over the past three years starting January 1995 and ending December 1997, the discharger's effluent exceeded the monthly average effluent limitations for settleable matter and total suspended solids 7 and 2 months, respectively. The weekly average effluent limitation for total suspended solids was exceeded 3 times. And the daily maximum effluent limitations for settleable matter and total suspended solids were exceeded for 33 days and 8 days, respectively.
- c. The discharger's effluent exceeded the daily minimum effluent limitation for pH in 15 occasions.
- d. The discharger failed in at least two months to collect influent samples used to determine the compliance with the monthly 85% removal requirement for total suspended solids and BOD<sub>5</sub>. The discharger also failed to achieve the monthly 85% removal requirement for BOD<sub>5</sub> for 1 month and failed to meet the weekly average effluent limitation for BOD<sub>5</sub> once.
- e. The zero chlorine residual effluent requirement was exceeded 10 times.
- f. The moving median value for the most probable number of total coliform bacteria in any five consecutive effluent samples was exceeded 7 times.
- g. The in-house laboratory, which conducted the fish bioassay test and some other compliance testing, is not state certified as required by the permit. The use of a non-certified laboratory to perform tests for compliance purpose is a violation of the discharge permit.
- h. Fish bioassay tests were frequently canceled if significant number of fish in the effluent tank died during the test. The discharger would start a new test if possible. The discharger is required to investigate the causes of the failed tests and report any findings in the monthly Self-Monitoring Reports (SMRs). The discharger failed to comply with the investigation or reporting requirements.
- i. SMRs were rarely submitted on time and averaged more than a week late.
- j. The chlorine contact tank, which provides necessary chlorine contact time for disinfection, was frequently bypassed for cleaning due to accumulation of solids. The bypass is a violation of the discharge prohibitions of the permit.
- k. Frequent overflows from the discharger's collection system or treatment plant were not reported to the Regional Board at the time the overflows occurred. The

discharger reported these incidents in an Amendments to its SMRs dated September 5, 1997. There are a total of 38 incidents of overflows/spills mentioned in the amendments over the past three years. The discharger made no effort in estimating the overflow volume of each incident. It is believed that many of the overflows exceeded the reporting volume of 1000 gallons and that many reached Rodeo Creek or the Bay.

1. The discharger failed to submit Annual Reports as required by the permit for the past three years. The discharger also failed to submit, annually, reports/letters regarding: (1) review and update as necessary its Operations and Maintenance Manual; (2) review and update as necessary its Contingency Plan; (3) Treatment Facilities Evaluation Program report; (4) review and update as necessary its Storm Water Pollution Prevention Plan.
6. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (CEQA) in accordance with Section 15321(a)(2), Title 14 of the California Code of Regulations.

#### PROPOSED CIVIL LIABILITY

7. The maximum civil liability which could be imposed by the Regional Board in this matter, pursuant to California Water Code Section 13385(c), is \$10,000 for each day in which the violation occurs, plus \$10 per gallon for the discharged volume that is not cleaned up in excess of 1,000 gallons.
8. The Executive Officer of the Regional Board proposes that an administrative civil liability be imposed by the Regional Board in the amount of \$50,000. This amount includes \$10,000 for the reimbursement of staff costs incurred by Regional Board staff in preparing the Complaint and supporting information.
9. The discharger, through a letter to the Board dated May 28, 1998, requested that a portion of the above amount be suspended pending accomplishment of a supplemental environmental project acceptable to the Executive Officer. The request is acceptable to the Executive Officer and an amount of \$40,000 is suspended pending accomplishment of a supplemental environmental project. The discharger must submit to the Board a proposal for such a project by September 1, 1998. If the proposed project is not acceptable, the discharger has 30 days from receipt of notice of rejection of that submittal, to either submit a new or revised proposal or submit payment for the full amount suspended. The accepted project(s) must be completed by September 30, 1999. Any money not used by that date must be submitted to this Board and made payable to the State Cleanup and Abatement Fund or directed toward an alternative project acceptable to the Executive Officer.
10. In determining the amount of administrative civil liability, California Water Code Section 13385(e) requires the consideration of the following factors:

“The nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefit and savings, if any, resulting from the violation, and other matters that justice may require.”

You may waive the right to a hearing. If you wish to waive the hearing, an authorized person must check and sign the waiver and return it to the Regional Water Quality Control Board, San Francisco Bay Region, at 2101 Webster Street, Suite 500, Oakland, CA 94612, by June 10, 1998. Payment of the civil liability is due within 60 days from the date the Executive Officer signs this Complaint. Any waiver will not be effective until 30 days from the date this Complaint was issued to allow other interested persons to comment on this action.

If you should have any questions, please contact Dr. Teng Chung Wu at (510) 286-0899, or Ms. Elizabeth Miller Jennings, Esq. the Regional Board Counsel at (916) 657-2421.

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DATE

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Loretta K. Barsamian  
Executive Officer

### WAIVER

- ☐ By checking this box, I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in the amended Complaint No. 98-001, and to remit payment for the civil liability imposed. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of or the amount of, civil liability proposed. I further agree to remit payment for the civil liability imposed within 60 days from the date the Executive Officer issues this Complaint.

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DATE

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DISCHARGER